



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,961	03/12/2001	Toyokazu Sugai	1163-0329P	2653

2292 7590 06/20/2007  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
----------

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
----------	--------------

2623

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/20/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Office Action Summary

**Application No.**

09/802,961

**Applicant(s)**

SUGAI ET AL.

**Examiner**

Annan Q. Shang

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/20/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection. The amendment to the claims necessitated the new ground(s) of rejection.

With respect to Claims 1-11, and 16-23 rejected under 35 U.S.C. 103(a) as being unpatentable over **Admitted Prior Art (Applicant Specification pages 1-2)** in view of **Program and System Information Protocol For terrestrial Broadcast and Cable (Doc. A/65- 23 Dec. 1997)** and Claim 12-15 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Admitted Prior Art (Applicant Specification pages 1-2)** in view of **Program and System Information Protocol For terrestrial Broadcast and Cable (Doc. A/65- 23 Dec. 1997)**, and further in view of **Thomas et al. (US 5666654)**, Applicant amends the claims and argues that "...Examiner must establish a prima facie case of obviousness..." and further argues that the 103(a)

rejection using Applicant's admitted prior art in view of Doc. A/65-23 Dec 1997 is improper (see page 10 of 15+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes Applicant's arguments, however, Examiner maintains that, the test for obviousness is not whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case Admitted Prior Art clearly anticipates an electronic program guide providing device (Applicant Specification pages 1-2) comprising: an editing means (Editor unit) for editing electronic program information received from a broadcasting source; an electronic program information storage means (Database) for storing the electronic program information edited by the editing means; a table generation means for generating a plurality of electronic program guide information tables by using the electronic program information stored in the electronic program information storage means, and transmitting the plurality of electronic program guide information tables as transport stream packets, the plurality of electronic program guide information tables including a 1st table events, and at least a 2nd table events occurring at different times or including different content from the events in the 1st table; wherein when updating the electronic program information stored in said electronic program information storage means, said editing means generates update information on the updating of the electronic program information; and the table generation means regenerates all of the EPG information table at

predetermined time intervals regardless of whether or not the electronic program information associated with a table updated; wherein the 1st table of events is separately regenerated at a time or in content different from the second table of events (see page 1-2 of Applicant's Specification). Self-Admitted prior art does not clearly disclose the table generation means determines which of the plurality of electronics program guide information tables needs to be generated based on the update information generated by the editing means and generates only those electronic program guide information tables that are determined to need updating by using the electronic program information stored in said electronic program information storage means. However, this deficiency is disclosed in Program and System information Protocol For terrestrial Broadcast and Cable, now DOC. A/65, discloses which of the plurality of electronics program guide information tables needs to be generated based on the update information generated by the editing means and generates only those electronic program guide information tables that are determined to need updating by using the electronic program information stored in the electronic program information storage means (pages 72-74 and 76-79). The amended claims do not overcome the prior arts of record. Hence the 103(a) rejections of all the claims is proper, meets the amended claim limitations as discussed below.

Furthermore it appears Applicant's arguments are directed against the admitted prior art and Doc. A/65-23 Dec 1997 individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of

references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). This office action is non-final.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-11, and 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Admitted Prior Art (Applicant Specification pages 1-2)** in view of **Program and System Information Protocol For terrestrial Broadcast and Cable (Doc. A/65- 23 Dec. 1997)**.

Claim 1, Admitted Prior Art clearly anticipates an electronic program guide providing device (Applicant Specification pages 1-2) comprising:

an editing means for editing electronic program information received from a broadcasting source;

an electronic program information storage means for storing the electronic program information edited by said editing means; a table generation means for generating a plurality of electronic program guide information tables by using the electronic program information stored in said electronic program information storage means, and transmitting the plurality of electronic program guide information tables as transport stream packets, the plurality of electronic program guide information tables

including a 1st table events, and at least a 2nd table events occurring at different times or including different content from the events in the 1st table;

wherein when updating the electronic program information stored in said electronic program information storage means, said editing means generates update information on the updating of the electronic program information; and

the table generation means regenerates all of the EPG information table at predetermined time intervals regardless of whether or not the electronic program information associated with a table updated; wherein the 1st table of events is separately regenerated at a time or in content different from the second table of events.

Self-Admitted prior art does not clearly disclose the table generation means determines which of said plurality of electronics program guide information tables needs to be generated based on said update information generated by said editing means and generates only those electronic program guide information tables that are determined to need updating by using the electronic program information stored in said electronic program information storage means;

Program and System information Protocol For terrestrial Broadcast and Cable, now DOC. A/65, discloses which of said plurality of electronics program guide information tables needs to be generated based on the update information generated by the editing means and generates only those electronic program guide information tables that are determined to need updating by using the electronic program information stored in the electronic program information storage means (pages 72-74 and 76-79).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Self-admitted prior art with the teaching of DOC. A/65 so to reduce bandwidth usage between the central delivery center of master EPG and each of the remote broadcasting distribution stations by identifying only tables that need to be updated (pages 72-74).

Claim 2, Self-Admitted art clearly meets the claimed limitation "an update information storage means for storing the update information generated by said editing means, and wherein, when updating the electronic program information stored in said electronic program information storage means, said editing means stores the update information on the updating of the electronic program information in said update information storage means".

Claims 3 and 4, "wherein each of the plurality of electronic program information tables corresponds to the type of electronic program information included therein" is further met by Self-Admitted prior art.

Claims 5 and 6, "wherein the table generation means updates only one or more electronic program information tables that needs to be updated at predetermined interval" is further met by Self-Admitted prior art as discussed in claim

Claims 7 and 8, "wherein said table generation means sets the length of predetermined intervals at which only one or more electronic information tables that needs to be updated are updated according to a sending frequency of an electronic program information table with the largest sending frequency" is further met by Self-admitted prior art because according to the updating process, the largest sending frequency of updating would also update the EPG information tables that have the



smallest sending frequency.

Claims 9 and 10, "wherein the table generation means sets the length of predetermined intervals at which each of one or more electronic program information tables that need to be updated is updated according to a sending frequency of each of the one or more electronic program information tables" is further met by Admitted Prior Art.

Claim 11, Self-admitted prior art in view of DOC. A/65 (see pages 72-74; Fig. D1-D2) further discloses wherein the device includes a plurality of editing means, and each of the plurality of editing means inspects update information generated by any other means stored in the updated information storage means.

Claims 16-17, Self-Admitted prior art (see applicant specification pages 1-2) in view of DOC. A/65 (see pages 71-74; Fig. D1-D2) further disclose "wherein the device includes a plurality of table generation means for generating the plurality of electronic program guide information tables while sharing a load of generating the EPG information table.

Claims 18-19, Self-Admitted prior art (see applicant specification pages 1-2) in view of DOC. A/65 (see pages 71-74; Fig. D1-D2) further disclose wherein the table generation means provides the plurality of electronic program guide information tables at predetermined time intervals, and updating the EPG information table, provides the updated EPG table at the same time that it updates the EPG information table.

Claim 20, method claim is analyzed with respect to claim 1.

Claim 21, method claim is analyzed with respect to claim 5.

Claim 22, method claim is analyzed with respect to claim 9.

Claim 23, method claim is analyzed with respect to claim 10.

5. Claims 12-15 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Admitted Prior Art (Applicant Specification pages 1-2)** in view of **Program and System Information Protocol For terrestrial Broadcast and Cable (Doc. A/65- 23 Dec. 1997)**, and further in view of **Thomas et al. (US 5666654)**.

Claim 12, Admitted Prior Art in view of DOC. A/65 does not clearly disclose wherein said update information storage means stores histories of the update information generated by said editing means, and said editing means restores the electronic program information stored in said electronic program information storage means to the state it was prior to any updating done by said editing means with reference to the histories of the update information stored in said update information storage means If necessary.

Thomas discloses wherein said update information storage means stores histories of the update information generated by said editing means, and said editing means restores the electronic program information stored in said electronic program information storage means to the state it was prior to any updating done by said editing means with reference to the histories of the update information stored in said update information storage means If necessary (Fig. 8; Col. 8, lines 9-46 and Col. 12, lines 28-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admitted Prior Art in view of DOC. A/65 with the

Art Unit: 2623

teaching of Thomas so the system able to roll-back to the previous state in case there is some interruption during the process of updating, i.e., data

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

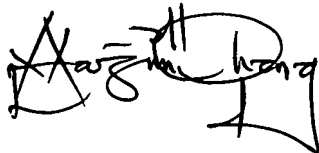
Arita (6,446,082) discloses method of receiving time-specified program contents.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at 866-217-9197 (toll-free). If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized, looped flourish at the end.

**Annan Q. Shang**